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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,584	12/15/2003	Jeremy Bem	0026-0062	1383
44989	7590	08/15/2006	EXAMINER	
HARRITY SNYDER, LLP 11350 Random Hills Road SUITE 600 FAIRFAX, VA 22030			VEILLARD, JACQUES	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/734,584	BEM ET AL.	
	Examiner	Art Unit	
	Jacques Veillard	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/04; 3/04/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the applicant's communication filed on 12/15/2006.
2. Claims 1-38 are pending and presented for examination.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/27/2004 and 3/04/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, it has been placed in the application file. The information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites the limitation "when the likelihood of the training data when the model includes the rule is sufficiently greater than when the model the model does not include the rule." This language is awkward, it is unclear to the examiner of what the applicant(s) meant by "when the likelihood of the training data when the model includes the rule is sufficiently greater than when the model the model does not include the rule" in the claim.

Furthermore, claim 16 recites the limitation "the likelihood of the training data" in 4. There is insufficient antecedent basis for this limitation in the claim. It is not clear to what "the

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likelihood of the training data” applicant(s) referring to. Appropriate correction or explanation is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20, 22-36 and 38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 1, 20, 22, 24 and 38 appear to be directed to an abstract idea rather than a practical application of the idea, since no tangible result appears to occur. What is forming (rule based) and selected (candidate condition and adding the rule to the model) is neither applied in a disclosed practical application nor made available for use in a disclosed practical application so as to constitute a tangible result. If the rule is not added to the model, the final result of forming the rule is not a tangible result. It is not clear whether adding the rule to the model is a tangible result. Instead, it appears to be just a thought or a calculation of a function that maps conditions to a probability formula within a processor. Thus, the claims are rejected under 35 U. S. C. 101 as being non-statutory.

7. Claims 21 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically directed toward software, per se.

The system as claimed is made up of 4 to 5 means, when turning to the specification page(s) 7 section [0030 and 0031] and page(s) 19 section [0071], it is clear that each of means

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could be software. Therefore, the system is just software per se. Since the software program constituting the system is not been claimed as embodied in a computer, the claim(s) is/are not directed to statutory subject matter. Without the above, the functionality of the software cannot be realized since it is not directly accessible by computer. Therefore, the claim(s) is/are rejected under the doctrine of 35 U.S.C. 101 as being non-statutory.

Other Prior Art Made Of Record

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Points Of Contact

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (571) 272-4086. The examiner can normally be reached on Mon. to Fri. from 9 AM to 4:30 PM, alt. Fri. off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272- 4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J.V.
J.V.

Jacques Veillard
Patent Examiner TC 2100

August 09, 2006


GREGORY ROBINSON
PATENT EXAMINER